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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,880	02/27/2004	Brian J. Conway	3984500-149029	9552

7590 10/06/2004

Porter, Wright, Morris & Arthur LLP
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EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT PAPER NUMBER

3671

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/789,880	CONAWAY ET AL.	
	Examiner	Art Unit	
	Nathan S Mammen	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 7-14, 16, 19, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,785,320 to Lorber, cited by Applicant.

The Lorber '320 patent discloses a rake comprising a head (16), an elongate handle (25) extending from the head, a plurality of parallel, spaced-apart, flexible tines (19) extending from the head opposite the handle, a brace (10) movable along the tines between a first and second position to change the effective stiffness of the tines, and a locking device (23) releasably securing the brace to the head. The spacing of the tines remains unchanged as the brace moves between the first (Fig. 1) and second (Fig. 2) positions.

Regarding claims 2, 7-14, 16, 19, 20: The tines (19) extend through separate openings (12) in the brace. The locking device includes interlocking protrusions (22) and grooves (15, 18) formed in the head and the brace. The locking device is adapted to releasably secure the brace to the head at locations between the first and second positions. The locking device comprises a knob (23 - wings) and rotation of the knob locks and unlocks the device. The tines are unremovable from the head (lines 90-93). The handle extends to the tines. The head includes a socket at the tines (17) and a cylindrical support (24) forming a passageway for receiving the handle (25).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,785,320 to Lorber.

The Lorber '320 patent discloses the claimed invention, as stated in paragraph 2 above, except for the tines and openings being T-shaped in cross section. The Lorber '320 patent has a rectangular cross section. However, it would have been an obvious matter of design choice to provide a rake tine and openings with a T-shape, since the claims do not employ the T-shape for any particular benefit and it appears that the invention would work equally well with the cross-section as disclosed by the Lorber '320 patent.

5. Claims 5, 6, 15, 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,785,320 to Lorber in view of U.S. Patent No. 4,744,208 to King.

The Lorber '320 patent discloses the claimed invention, as stated in paragraph 2 above. The rake head and teeth of Lorber '320 patent appear to be made of metal. See lines 55-58. Therefore, the Lorber '320 patent does not disclose a rake head and/or tines constructed of molded plastic. However, the King '208 patent teaches that it is known in the art to construct rakes of molded plastic (col. 4, lines 65-68). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the rake, or portions thereof, of the

Art Unit: 3671

Lorber '320 patent of molded plastic, as taught by the King '208 patent, in order to obtain the benefits of the ease of mass producing plastic parts.

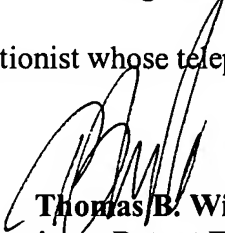
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
9/28/04

Nathan S. Mammen